

# Supreme Court of Kentucky

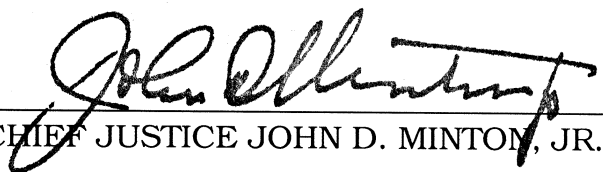
## ORDER

**IN RE: ORDER APPROVING THE LOCAL RULES OF PRACTICE AND  
PROCEDURE FOR THE 32ND JUDICIAL DISTRICT COURT,  
BOYD COUNTY**

Upon recommendation of the Judges of the 32nd Judicial District, and  
being otherwise sufficiently advised,

The Local Rules of Practice and Procedure for the 32nd Judicial District,  
Boyd County, are hereby approved. This order shall be effective as of the date  
of this Order, and shall remain in effect until further orders of this Court.

Entered this the 11th day of April 2012.

  
CHIEF JUSTICE JOHN D. MINTON, JR.

**LOCAL RULES OF THE BOYD DISTRICT COURT**  
**32<sup>ND</sup> JUDICIAL DISTRICT**

**RULE 1 INTRODUCTION/ADMINISTRATIVE PROCEDURE**

**101 Preface**

These are the Uniform Rules of Court Practice and Procedures of the Boyd District Court. These Rules supplement the Kentucky Family Court Rules of Procedure and Practice (FCRPP), the Kentucky Rules of Criminal Procedure (RCr) and the Kentucky Rules of Civil Procedure (CR). These rules shall be the only operative Boyd District Court Rules, Family Division. All previous rules adopted by the Boyd District Court are hereby rescinded.

**102 Effective Date**

The effective Date of these Rules shall be 30 days after the Kentucky Supreme Court approval.

**103 Citations**

These Rules shall be cited as the BCDRP (Boyd County District Rules of Procedure)

**104 Assignment of Cases**

a. All cases filed will be assigned upon filing by the Circuit Court Clerk or his deputy at the time the case is filed.

b. In the event the Judges of the respective divisions are disqualified from trying such cases so assigned for the reason of being attorney of record, or other reasons, the case in which such Judge is so disqualified shall be reassigned, by written order, to the other Division. The written Order reassigning the case shall be signed by the Judges of each Division.

c. Where related actions are assigned to different Divisions, Judges may consolidate and/or transfer the actions to that Division of Court in which the first action was assigned. Both Judges must sign the Order transferring.

**105 Holidays**

Holiday schedules may be obtained at the Boyd County Circuit Clerk's Office.

**RULE 2 COURT SCHEDULING/MOTION HOUR/PROCEDURES FOR FILING**

**201 Schedule**

Regular motion hour for all Boyd District Court actions will occur on Thursday mornings at 9:00 a.m.

**202 Deadlines**

Motions shall be filed by Friday at 4:00 p.m. of the week preceding the Motion hour. If the courthouse is closed on Friday, then the motion must be filed by Thursday at 4:00 p.m.

**203 Exceptions to Regular Motion Hour Schedule**

If a state holiday falls on Thursday, Motion Hour will be conducted on the following Thursday. If the Court is closed for any unforeseen reason, Motion Hour shall be passed to the following Thursday.

**RULE 3 DOMESTIC VIOLENCE PROTOCOL AND 24 HOUR ACCESS POLICY**

- 301** Pursuant to KRS 403.735, and in compliance with Family Court Rules of Procedure and Practice (hereinafter "FCRPP") 13, the local Twenty-Four Hour Accessibility to Emergency Protective Orders and Local Joint Jurisdiction Domestic Violence Protocol is attached hereto as Appendix A is incorporated herein by reference as if set out in full.

**RULE 4 PATERNITY**

**401 Motion Practice**

Motions for matters involving paternity actions shall be heard on Thursdays at 9:00 a.m. The matters may be scheduled for a date certain on a hearing if needed.

**402 Reopening Fee**

Pursuant to FCRPP 14(1), a \$50.00 reopening fee shall not be paid for motions in cases brought pursuant to Title IV-D of the Social Security Act for child support modification or enforcement. However, where an action is initiated pursuant to Title IV-D but subsequent motions regarding child support, custody or visitation are brought by a private attorney or are filed by a party pro se, rather than by Title IV-D counsel, the fee shall be charged unless the motion is brought in forma pauperis.

**403 Permission to Review and Copy Paternity Case Files**

Upon receipt of the Boyd Circuit Court Clerk's Office of an attorney's statement seeking permission to review and copy a paternity case file, OR upon the receipt by the Boyd Circuit Court Clerk's Office of a party's signed and notarized release authorizing an attorney to inspect the party's paternity case file, for reasons relating to representation in that action of a party thereto, the Clerk's office shall grant the attorney access to such a file.

Pursuant to KRS 406.035, the attorney seeking permission to review and/or copy the paternity file shall sign a statement that the order of judgment is the only information which may be shared with the client and that all other information in the case cannot be disclosed to the client, including information relating to domestic violence or child abuse as well as the addresses of the parties. Regardless of the subsequent representation or non-representation of the party, any information contained in such file is confidential and subject to the attorney-client privilege.

**404 Access to Paternity Cases for Attorneys and Guardians ad Litem Representing Incarcerated Parents**

The Boyd District Court Clerk's Office shall allow attorneys and Guardians ad Litem who are representing incarcerated parents in paternity cases to have access to the records of those actions.

**RULE 5 DEPENDENCY, NEGLECT AND ABUSE**

**501 Procedures for Emergency Custody Orders**

In Boyd County in order to obtain an emergency custody order as set forth in FCRPP 19:

- a. During normal working hours Monday through Friday 8:30 a.m. to 4:00 p.m. the person seeking an Emergency Custody Order (ECO), shall come to the Boyd County Circuit Clerk's Office.
- b. After working hours Monday through Friday and on weekends, the on-call District Judge shall be contacted. If the ECO is granted, the Cabinet for Health and Family Services shall file the original order with the Boyd Circuit Court Clerk's Office on the next working day.

## **502 Petition**

- a. All petitions shall be filed in accordance with FCRPP 20 and shall be submitted to the Assistant Boyd County Attorney, who shall check the petition for legal sufficiency. If the petition is rejected by the County Attorney, it shall be submitted to the Boyd District Court Judge for determination of legal sufficiency. If the Judge determines that the petition fails to state grounds for action pursuant to KRS Chapter 620, the Petition shall be dismissed. If the petition is approved, the Assistant County Attorney or Judge as appropriate shall initial the petition for filing. A copy shall be distributed to the Assistant County Attorney assigned to prosecute dependency actions and the original shall be filed with the Boyd Circuit Court Clerk's Office.
- b. Any petition filed with this Court shall comply with the following conditions:
  1. Citations to specific statute and factual allegations relied upon in asserting the Court's jurisdiction; and
  2. Full information concerning the child's parents and their address(es). The petitioner shall make diligent efforts to locate the child's parents, including but not limited to, initiating contact with the Child Support Division of the Boyd County Attorney's Office.

## **503 Effects of Service on Only One Parent, Persons Exercising Custodial Control or Supervision**

The District Judge may permit the temporary removal hearing or the adjudicatory hearing to go forward when the non-custodial parent has not been served in accordance with FCRPP 18(1) if it is established on the record that the petitioner has made diligent efforts to serve all other parties, including initiating contact with the child support division of the County Attorney's Office, in an attempt to locate any absent parent. The petitioner shall make continuing diligent efforts after the hearing to locate and notify all persons who were not served.

## **504 Time for Temporary Removal Hearing**

The temporary removal hearing shall be held according to the following guidelines:

The temporary removal hearing shall be scheduled on the dependency docket of the division to which the case is assigned if that docket will be held within 72 hours, excluding holidays and weekends of the issuance of the ECO. If the division's dependency docket will not be held within 72 hours, the temporary removal hearing will be scheduled for a hearing within 72 hours of the issuance of the ECO.

**505     The Duty of the Guardian Ad Litem and Parent Attorney to Continue**

After a guardian ad litem or parent's attorney accepts the appointment, representation shall continue throughout all stages of the dependency, neglect and abuse action. All parties shall be served with a notice of an attorney request to withdraw.

**506     Records and Transcript**

The records of the proceedings shall be kept and copies shall be available to the parties and their counsel upon request in accordance with the provisions of FCRPP 27.

**507     Dispositional Hearing**

At the dispositional hearing, the Cabinet for Health and Family Services shall provide the Court with the information required pursuant to FCRPP 28 by completing Form AOC DNA-12. In addition, if siblings have been separated the Cabinet shall explain reasons for any separation.

**RULE 6       STATUS OFFENSES**

There are no local rules relating to Status Offense cases in the Boyd District Court. For uniform statewide rules of procedure see FCRPP 37 through 44.

**RULE 7       MISCELLANEOUS RULES RELATING TO FAMILY LAW PRACTICE**

**701     Protection of Personal Identifiers**

- a. All pleadings must comply with the requirements of KRS Chapters 205, 403, 405, 406 and 407, by providing the personal identifying information required of those chapters. However, as set forth below in paragraph b, where personal identifiers are required by statute or contained in other documents or exhibits filed with the Court pursuant to the above chapters, the parties shall comply with Civil Rule 7.03 (1)(b) by filing one copy from which the personal data has been redacted and filing an un-redacted copy in a marked sealed envelope. The Clerk of the Court shall allow the un-redacted sealed copy of the pleading document or exhibit containing personal identifiers to be accessed only by the party to the case, an attorney of record in the case, a judge for the court, or other authorized court personnel, ideally authorized employee or agent of the Cabinet for Health and Family Services involved in child support matters, attendant to the case or a person authorized to view the case by specific orders of the court. As used in this section, personal identifier means a social security number, tax payer identification number, date of birth or financial account number.

- b. The pleadings, documents or exhibits filed in actions deemed confidential by statute need not be redacted, and any access to those files shall not be redacted.

APPROVED this the 4 day of April, 2012.



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Scott T. Reese, District Judge



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Gerald B. Reams, Jr., District Judge

## **APPENDIX "A"**

### **TWENTY-FOUR HOUR ACCESSIBILITY TO EMERGENCY PROTECTIVE ORDERS AND LOCAL JOINT JURISDICTION DOMESTIC VIOLENCE PROTOCOL 32<sup>ND</sup> JUDICIAL CIRCUIT AND DISTRICT BOYD COUNTY**

Pursuant to KRS 403.735, and in compliance with Family Court Rules of Procedure and Practice (FCRPP) Section IV, this local domestic violence protocol is established to ensure twenty-four hour accessibility to emergency protective orders and to establish written procedures for domestic violence matters in which there may be joint jurisdiction between the circuit/family and district courts.

#### **I. Uniform Protocol for Processing Cases**

- A. Circuit court clerks shall process domestic violence cases in accordance with the procedures set forth in the "Domestic Violence Proceedings" section of the Kentucky Circuit Court Clerk's Manual.
- B. All cases will be assigned a "D" case number with the appropriate trailer number within the court case management system and may not be consolidated with any other case type.
- C. If there is a pending divorce or custody action involving the parties to the Emergency Protective Order, the matter shall be transferred to the Boyd Circuit Court Division handling the divorce and/or custody matter. The parties must file a notice to the Court advising the Court of the petition. The parties must appear at the scheduled hearing before the Boyd District Court in order to obtain service, or must be served with the new court appearance prior to the scheduled time unless served with the petition designating the new court date and time prior to the scheduled hearing.
- D. Domestic violence cases are civil matters within the purview of CR 41.01. Therefore, this jurisdiction does not have a blanket "no-drop" policy.
- E. At the discretion of the judge and consistent with FCRPP 12, domestic violence cases may be reassigned or transferred to another circuit if there exists a pending dissolution or custody matter in the other Circuit. Any Emergency Protective Order shall continue and the Summons shall be reissued by the initiating Court, pursuant to KRS 403.740(4), for a period not to exceed fourteen (14) days if service has not been made on the adverse party by the date of transfer, or as the Court determines is necessary for the protection of the Petitioner. Thereafter, reissuance of the Summons shall occur as needed in the court of transfer.



## II. Twenty-four Hour Accessibility

- A. The following agencies and officers are authorized to take domestic violence petitions and administer oaths to petitioner **during** regular business hours:

Boyd District Court Clerk's Office, Boyd County Judicial Center, 1<sup>st</sup> Floor, 2805 Louisa Street, Catlettsburg, Kentucky, 41129.

- B. The following agencies and officers are authorized to take domestic violence petitions and administer oaths to petitioner **after** regular business hours and weekends:

Any law enforcement agency (including city and county police and Kentucky State Police)

- C. Upon receipt of a petition **during** regular business hours, the authorized agency/officer shall present the petition to the following:

During regular business hours the person receiving and verifying the Petition shall, if possible, deliver the Petition to the Circuit/District Court Clerk's Office and that officer shall immediately present the Petition to the District Judge of the 32<sup>nd</sup> Judicial District found within Boyd County. If a District Judge cannot be located within the county, the Petition shall be presented to a Circuit Judge of the 32<sup>nd</sup> Judicial Circuit found within Boyd County. In the event no judge can be located in the county, the Petition shall be presented to a District or Circuit Judge in any county adjoining Boyd County.

- D. Upon receipt of a petition **after** regular business hours, the authorized agency/officer shall present the petition to:

During hours other than regular business hours, the person receiving and verifying the complete Domestic Violence Petition shall deliver the Petition to the an appropriate law enforcement agency and an officer of that agency shall immediately present the Petition to the District Judge of the 32<sup>nd</sup> Judicial District found within Boyd County and if the District Judge cannot be located within the county, the Petition shall be presented to the Circuit Judge of the 32<sup>nd</sup> Judicial Circuit found within the county. In the event neither judge can be found within the county, the Petition shall be presented to a District or Circuit Judge found in any county adjoining Boyd County.

- E. Petitions will be reviewed within an hour of presentation to a judge or trial commissioner unless it is impossible due to the unavailability of a judge or trial commissioner.

F. The schedule for domestic violence hearings is as follows:

Cases shall be scheduled on Thursday at 9:30 a.m.

### III. Contempt Proceedings

A. Pursuant to KRS 403.760, civil and criminal proceedings for violation of a protective order for the same violation of a protective order shall be mutually exclusive.

B. Petitioners seeking to initiate contempt proceedings should contact:

The Boyd District Court Clerk or the Boyd County Attorney.

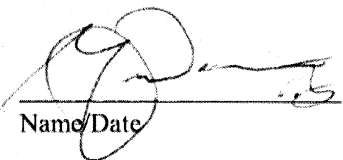
C. No petitioner may be held in contempt for failing to appear at a domestic violence hearing or to prosecute a criminal violation of a protective order.

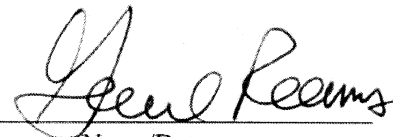
All general orders, forms, policies and procedures relating to domestic violence within the judicial circuit are attached to this protocol and incorporated by reference.

The above protocol is adopted by all judges in the circuit/district:

  
Name/Date 3/16/12

  
Name/Date 3-16-12

  
Name/Date 3/16/12

  
Name/Date 3-16-12